THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.16431 OF 2005

DATED: 04.08.2005

Between:

Ch. Appa Rao … PETITIONER.

AND

The Superintending Engineer,

Assessments, APEPDC Ltd.,

& another. … RESPONDENTS

ORDER:

Heard Sri T.M.K. Chaitanya, Learned counsel for the petitioner and Sri V.Ajay Kumar, learned Standing Counsel and at their request, the writ petition is disposed of at the stage of admission.

The grievance of the petitioner, in this petition, is that the final assessment order was passed by the 1st respondent, vide proceedings dated 23.05.2005, without giving an effective opportunity of hearing to the petitioner herein. Petitioner submits that though the petitioner along with this Advocate attended the hearing on 18.04.2005, the matter was adjourned to 02.05.2005 and in view of the continuous ailment of the Advocate for the petitioner, they could not attend the hearing fixed at 02.05.2005. It is further stated that the petitioner's counsel subsequently died. Learned Counsel submits that in view of the fact that the petitioner's counsel was ill and had subsequently expired, his inability to attend the hearing before the first respondent on 02.05.2005 is neither willful nor deliberate and that the assessment order passed

in this regard, without giving adequate opportunity of hearing to the petitioner, is liable to be set aside.

Sri V. Ajay Kumar, learned Standing Counsel submits that the petitioner has an effective alternative remedy by way of an appeal provided under Section 127 of the Electricity Act 2003 against the assessment order passed by the 1st respondent, without exhausting which, the petitioner is not entitled to invoke the extra-ordinary jurisdiction of this Court under Article 226 of the Constitution of India.

While the grievance of the petitioner, appears to be genuine and ill health of his Counsel and his subsequent demise seems to be a justifiable reason for his non-appearance, for which the petitioner cannot be held responsible, these are all matters which are required to be urged by the petitioner by way of an appeal preferred under Section 127 of the Electricity Act, 2003.

Learned counsel for the petitioner submits, that the petitioner shall prefer an appeal within one week from today. Needless to mention that the appellate authority shall, in the light of what has been stated above, consider the appeal preferred by the petitioner and pass appropriate orders thereon within a period of four (4) weeks from the date of receipt of such application filed by the petitioner.

Writ petition is disposed of. No costs.

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RAMESH RANGANATHAN, J

Date: 04.08.2005

MRKR